Practitioner Number Study

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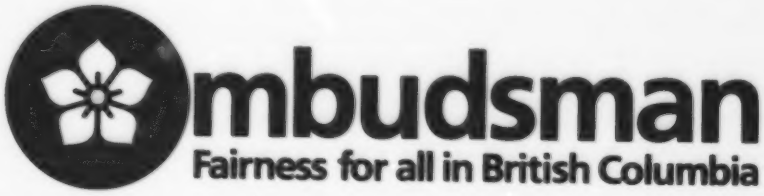

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November 13, 1987.

Background

Since the spring of 1987, this office has been contacted by a number of physicians in the Vancouver/Burnaby area who were concerned about the process by which the Medical Services Commission determines eligibility for permanent Medical Services Plan practitioner numbers in that area. Contact has not only been initiated by physicians who had specific complaints after being refused a practitioner number, but as well, by physicians who had general concerns about the process. The decision to conduct a survey of practitioner number applications in the area was in response to those expressed concerns. Those concerns will be addressed specifically in the Observations Section of the report.

It is important to keep in mind that since the passage of the Medical Service Amendment Act in 1985, permanent practitioner numbers have been allocated throughout B.C. on what basically amounts to a quota system. This survey does not address the social policy behind the Act and the regulations made pursuant to it, as this is not the role of the Ombudsman's office. Rather it examines how the legislation is being administered.

The Medical Service Amendment Act, which amended the Medical Service Act on May 30, 1985, established a system which allocated and restricted numbers in each of the 34 practitioner areas established under the Act. As well, regulations made pursuant to the Medical Service Act established a schedule which would determine the population-to-practitioner ratio for each of the 20 different types of practices or specialities listed. For example, for general practice physicians in the Vancouver/Burnaby practitioner area, the schedule established, as a guideline, a ratio of one full time equivalent physician (FTE) to every 1,390 persons living in the area.

Data supplied to our office by the Medical Services Plan indicates that in fiscal years 1983/84, 1984/85 and 1985/86, there has always been a surplus of general practice FTE positions in the Vancouver/Burnaby practitioner area according to this ratio. For example, in fiscal year 1985/86 (the last year for which M.S.P. was

able to provide data), the guidelines called for a quota of 411.1 general practitioner FTE's, while in fact there were 654.4 FTE's in practice, creating a surplus of 243.3 or 59%. The surplus of general practice FTE's has grown in the past 3 years, from 207.1 in 1983/84. This growth can perhaps be accounted for by the fact that physicians who were granted practitioner numbers before June 1, 1985 are free to practice throughout the province without restriction, and to move or establish a practice wherever in the province they choose.

The Legislation

Section 17.03 of the Medical Service Act regulations specifies the application process for practitioner billing numbers.

> "17.03(1) A medical practitioner who does not have a practitioner number may apply for a practitioner number for a practitioner area by filing with the Commission an application in the form established by the Commission.
>
> (2) On receipt of a completed application, the Commission shall stamp the application with the time and date it is received.
>
> (3) For the purpose of subsection (2), where an applicant has full hospital admitting privileges at a hospital in the practitioner area for which he is applying his application shall specify the hospital at which he has full hospital admitting privileges."

The regulations also set out the conditions that the Medical Services Commission shall comply with before granting a practitioner number. Sections 17.05 and 17.06 deal with consideration of the established ratio for the area, whether or not the applicant has full hospital admitting privileges at a hospital in the area, and whether or not that hospital has a demonstrated need for the type of services the physician could provide.

> "17.05(1) The Commission shall consider whether the ratio of the population in the practitioner area to the number of full time equivalent medical practitioners in the type of practice that an applicant for a practitioner number for that practitioner area will be carrying on exceeds the ratio set out in Schedule 2.

(2) The Commission shall determine whether an applicant has full hospital admitting privileges at a hospital in the practitioner area for which he has applied for a practitioner number.

(3) The Commission shall consider whether the hospital at which an applicant has been granted full hospital admitting privileges has a demonstrated need for medical practitioners in the type of practice that the applicant will be carrying on."

Because of the large number of applications for a practitioner number in the Vancouver/Burnaby practitioner area, the ranking of those applications is crucial to the whole process. Section 17.06 of the regulations provides further instruction to the Commission.

"17.06 Where there are 2 or more applicants for one practitioner number for the same practitioner area who

(a) will be carrying on the same type of practice, and

(b) have full hospital admitting privileges at a hospital in that practitioner area that has a demonstrated need for medical practitioners in the type of practice that the applicants will be carrying on,

the Commission may only grant a practitioner number to the applicant with the earliest time and date stamped on his application."

Permanent Billing Number Applications
In the Vancouver/Burnaby Practitioner Area No.30 (P.A.30)
June 1, 1985, to September 30, 1987

The focus of the study was:

a) To review each case where a permanent practitioner number had been granted in P.A. 30 since June 1, 1985. P.A. 30 had been selected for this study as it was the area where most of the complaints to this office concerning billing numbers had originated. June 1, 1985, was chosen as a starting date as it coincides with the date that restrictions in practitioner numbers under the Medical Services Amendment Act became effective.

b) To categorize the reasons why the numbers were granted, in an attempt to identify what factors would lead to a successful application.

c) To review each case where an application for a permanent number in P.A. 30 had been refused since June 1, 1985. These cases would be reviewed for comparative purposes and to assist in identifying factors which would result in an unsuccessful application.

Note: For the purposes of this study, the review was limited to general practitioners only. Only those cases where a full fee for service number was at issue were reviewed. Those cases where a partial fee for service number was issued to augment a part-time salaried position in a provincially funded agency were set aside.

Method: Files were obtained from M.S.P. in the following categories:

i) All cases where a new practitioner number had been granted in a P.A. 30 since June 1, 1985.

ii) All cases since June 1, 1985, where the physician had obtained privileges at a hospital in P.A. 30, and a "letter of need" from the hospital supporting the need for the physician's services, but where the Commission had refused the physician's application for a permanent number.

iii) A sample of those cases where, since June 1, 1985, a physician who had not obtained hospital privileges or a "letter of need" had applied for and been refused a permanent number.

In the survey, it was possible, with the assistance of the Medical Services Plan personnel, to identify 218 cases in all three categories:

i)	cases where a number was granted	16
ii)	cases with privileges and letter of need but number was refused	12
iii)	cases with no privileges or letter of need and number refused	190
	Total	218

Observations

i) When the 16 cases where a permanent number had been granted were received, it was found that the group could be further subdivided on the basis of type of practice being entered into by the physician. It was found that 7 of the 16 cases were not considered to be community based practices where a physician might typically see patients in his/her own office and admit to the local hospital where necessary. In the 7 cases, the physician in question worked full time as a staff member of the hospital and had no outside practice in the community. A typical example would be a physician working full time in the hospital's emergency room, or in the radiology or pathology departments.

The remaining 9 approvals were for community based practices.

As the original complainants' concerns were with the granting of practitioner numbers for community based practices, the circumstances of those 9 successful applications were explored further. (Please refer to Appendix A.)

ii) When the unsuccessful applicants who had nevertheless obtained hospital privileges and a letter of need were reviewed, it was found that all 12 appeared to be physicians who are trying to establish community based practices. (Please refer to Appendix B).

iii) The majority of applications in the Vancouver/Burnaby area since June 1, 1985 were those where the physician had neither hospital privileges nor a letter of need. In most of the cases that were reviewed, it was found that the physician had applied for a locum number to replace temporarily another physician who was away from his/her practice, and in his/her application for a locum number also included a statement indicating that he/ he wished a permanent number as a first preference. In the cases reviewed, it was found that the physician was promptly given the locum number and additional information about the requirements for obtaining a permanent number. With the assistance of staff at the Medical Services Plan, 212 cases were identified where the physician had applied for a locum, as this was the only means available to identify refused applications. Staff at the Plan estimated that approximately 90% of those applications would also include a request for a permanent number. To verify this, a random 10% sample was drawn and the 90% estimate was found to be accurate. This group consists of about 190 physicians.

Complaints

The concerns of the complainants can be divided into three separate categories and summarized as follows:

a) That the Medical Services Commission is deliberately slow in processing applications for practitioner numbers, and that they do not indicate to the applicant when his application is considered "complete".

b) That the Commission does not rank applicants according to the rules set out in the Medical Service Act regulations. Section 17.06 specifies that where there are two or more applicants for an available number for the same practitioner area, the Commission may only grant the number to the physician with the earliest date stamp on his application. This is subject to the

physician having full hospital admitting privileges at a hospital in the practitioner area where the hospital can also demonstrate a need for services of the type that the physician in question can provide. The complainants feel that the Commission is not administering this regulation properly in that applications are ranked by hospital, not by practitioner area (there are 18 hospitals in the Vancouver/Burnaby practitioner area).

c) That the Commission has given assurances to some retiring physicians in the area that any physician who buys their practice will be given a number. This allows someone with enough money to jump the queue, or waiting list. It also gives the impression that practitioner numbers are a commodity that can be bought and sold. (There is no fee payable to the Commission or the government when a billing number is granted.)

Findings

a) In addressing the concerns about the length of time that the Commission was taking to respond to inquiries from physicians, a sample was drawn of 35 pieces of correspondence from the files of the 12 physicians in the queue for a number, where the correspondence required a response from the Commission.

It was found that the Commission had replied to the 35 pieces of correspondence in the following time frames:

Within one week:	11
Within two weeks:	9
Within three weeks:	5
Within four weeks:	2
Within five weeks:	0
Within six weeks:	1
Within seven weeks:	0
Within eight weeks:	3
Within nine weeks:	2
Within ten weeks:	1
Within eleven weeks:	0
Within twelve weeks:	1
	35

This review of the Commission's response to inquiries indicates that correspondence is generally dealt with in an expeditious and direct manner. The few cases where several weeks lapsed between the correspondence arriving and a response being given illustrate more the problems these physicians may have had in pursuing their applications for a practitioner number than a general problem with the processing of correspondence.

Considering the second part of this complaint, it was found that there was little information in any of the files that dealt specifically with the issue of the physicians application being "complete". However, this office received correspondence from the Commission in the past that indicates that an application is considered "complete" when the Commission receives the information that the physician has been given hospital privileges. It is at that time that the physician apparently takes his/her place in the queue. Section 17.06, which deals with the ranking of applications, indicates that rank is to be determined by the earliest date stamp on the application, (the Commission provides an application form which must be completed) and does not refer specifically to the order in which full admitting privileges are received. If the Commission considers an application complete only when accompanied by hospital privileges, then this should be stated clearly on the application form, and not merely mentioned in correspondence.

b) Regarding the ranking of applications and granting of billing numbers within the Vancouver/Burnaby practitioner area, the complainants are quite accurate in their belief that this process takes place only in the context of individual hospitals, not within the whole area as specified by the Medical Services Act regulations.

The Medical Service Act regulations are unclear as to whether the system for granting numbers is within the context of the practitioner areas established by the regulations, or of individual hospitals. The review of the files and discussions with the Commission on this matter indicate within P.A. 30, that the ranking is by hospital, and that no administrative scheme is in place which would facilitate implementation of an area wide ranking system.

However, it must be appreciated that the Vancouver/Burnaby practitioner area, with 18 hospitals within its boundaries, is not typical of other areas of this province. While the Commission acknowledges that a problem would exist with practitioner area ranking, it must be recognized that finding an adequate solution is not an easy task.

It may be that the most reasonable solution to multi-hospital practitioner areas is to require all hospitals in an area to subscribe to a common manpower plan.

c) The complaint that there may be a connection between the purchase of a practice from an established physician who wishes to leave his practice, and the granting of a practitioner number to the new physician has been investigated.

The complaint is largely that the Commission gives or implies assurances to retiring physicians that the physician who purchases the practice will be given a billing number. The basic fact relating to this complaint is that no physician could possibly take over another's practice without a practitioner number, as he/she would not be able to bill the Medical Services Plan for his/her services. This complaint has been investigated through interviews with the Commission, and through search of appropriate files, and no evidence was found that such assurances were given. The Commission has stated that the giving of assurances would be improper and would not be contemplated. The correspondence on the files indicated that in many cases the physician who wished to sell his practice would write to the Commission in support of the purchasing physician's application for a billing number. In all cases, we found the responding correspondence from the Commission to be polite and informative, but non-committal.

However, we wish to comment on the apparent fact pattern at work in the granting of numbers. As indicated by Appendix A and Appendix B, there is a significant difference in the success rate for similar applicants where a physician has purchased, or is in the process of purchasing a practice, and another has not. In general, the purchase of an existing practice appears to be a significant factor in obtaining a

number. The Commission has been interviewed on this point and has advised that it does not consider the purchase of a practice in determining whether or not a physician should be granted a billing number. The Commission does confirm however that gaps in service to patients are responded to and that patients should not be left without a physician. However, it may well be that there is a connection between the issuing of hospital privileges and the buying of a practice, and hospital privileges are a critical factor in obtaining a practitioner number.

It is apparent that the close association between the purchase of a practice, the granting of hospital privileges and the granting of a number has created an impression that is harmful to the Commission, and to the credibility of the process.

In a recent appeal of the refusal of a hospital to grant medical privileges to a physician, the Medical Appeal Board was critical of the hospital decision to grant privileges to those purchasing practices while refusing them to other well qualified practioners. "...the evidence satisfies us that the Hospital Board was wrong in establishing an iron-clad policy of manpower requirements and adhering rigidly to such policy to the exclusion of other factors while at the same time automatically granting privileges to those purchasing a practice. Indeed, the latter approach, while undoubtedly well meant by the Hospital Board, can do nothing more but create a reasonable apprehension of bias in the minds of the public".*

During this review of the practitioner number process, two additional observations were made which would apply generally to practitioner areas throughout the province.

(a) There is no provision for an independent appeal from a decision of the Commission. This shortcoming may be compounded by the fact that in reality the Medical Services Commission is one individual only, who is also the Chairman of the Commission.

*Footnote - reference

(Decision of the Medical Appeal Board between Doreen L. Aitken, M.D. (appellant) and Penticton Regional Hospital (respondent) dated April 15, 1986)

(b) Although the Commission provides an information package on inquiry, this information is not derived from a consolidated body of policy. There are insufficient comprehensive written policies available which standarize the procedures to be followed by applicants or the Commission, or by the staff of the Commission in processing applications for billing numbers.

Because the approval of practitioner numbers by the Commission is discretionary, the omission of these two elements from the process is significant.

Recommendations:

Based on this review of the process established for considering applications for practitioner numbers in the Vancouver/Burnaby area, the following recommendations are made to the Medical Services Commission. These recommendations are applicable to all practitioner areas:

1. That immediate steps be taken to establish an independent Appeal Board which could hear appeals of the Commission's decisions regarding practitioner numbers. The Board would be the final arbiter and would be empowered to alter decisions of the Commission. Division 16 of the Medical Service Act Regulations does establish the Medical Services Tribunal to which a physician may submit a request for a review of a decision made by the Medical Services Commission. However, the Regulations, at present, limit the Tribunal to reviewing situations where the Commission has suspended, or cancelled the physician's practitioner number for cause, or where a physician has been ordered to collect his fees directly from the patient. The Tribunal has no power to review issues relating to the granting of practitioner numbers.

   The other appeal mechanism available to physicians at present, the Medical Appeal Boards established under section 37 of the Hospital Act, deals with the granting of privileges by individual hospitals, and has no role in reviewing the actions of the Commission.

2. That the Commission develop and distribute clear, consolidated policies setting out the specific conditions under which a number would be granted, including the date stamping and ranking of applications. They should be made available to all interested parties.

3. That the Commission develop procedures for ranking applications for practitioner numbers in practitioner areas which have more than one hospital; and that the Commission seek legislative authority to require that the hospitals in the practitioner area subscribe to an area wide manpower plan, notwithstanding the administrative complexities of exercising such authority.

4. Based on the principles outlined by the Medical Appeal Board in the Aitken decision quoted above, this office recommends that the Commission scrutinize cases where the applying physician is involved in the purchase of a practice to ensure that the application has not been advanced in any step of the process by the purchase of that practice. If it appears that the granting of hospital privileges has been advanced by the purchase of a practice, the Commission should refer the matter back to the hospital for reconsideration.

5. That the Commission contact, in writing, members of the medical community and clarify to them that the purchase of a practice will not be considered a factor by the Commission in determining eligibility for a practitioner number.

Stephen Owen
Ombudsman

APPENDIX "A" - SUCCESSFUL APPLICANTS

Physician	Date number granted	Hospital Privileges	Letter of Need from Hospital	Circumstances of Practice
#1	Dec. 2/85	Full Privileges at Royal Columbian & St. Mary's - Not in area 30	yes	Purchased a practice from a retiring physician. Practice was in Burnaby but hospital in New Westminster.
#2	July 1/86	Visiting privileges at Burnaby General	yes	Purchased a practice.
#3	Oct. 14/86	Visiting at Burnaby General	yes - vacancy in Manpower Plan	Tried to start a new practice. This physician was given a billing number on recommendation of hospital.
#4	Oct. 29/86	No	no	This physician is a salaried employee of an airline. He is allowed to bill for employees who see him at work. The M.S.P. payment goes back to the airline.
#5	Nov. 12/86	Visiting at Burnaby General	yes	Purchased practice of retiring physician.
#6	Nov. 26/86	Courtesy at St. Vincent's	yes	Took over practice of physician who wished to move.
#7	April 16/87	Courtesy at St. Vincent's	yes	Took over caseload, jumped over two others in St. Vincent's queue. Special circumstance of proficiency in required language.
#8	April 24/87	No	no	Purchased practice from retiring physician.
#9	April 30/87	Courtesy at St. Vincent's	yes	Purchased practice from estate of deceased physician. Jumped over two others in queue at St. Vincent's. Special circumstances of proficiency in required language.

APPENDIX "B" - UNSUCCESSFUL APPLICANTS

Physician	Date number refused	Hospital Privileges	Letter of Need from Hospital	Circumstances of Practice
#1	Since Dec./85	Courtesy at St. Vincent's	yes	Wishes to establish a practice.
#2	Since Sept./85	Courtesy at St. Vincent's	yes	Wishes to establish a practice.
#3	Since Nov./85	Courtesy at U.B.C. pending take-over of practice	N/K	Was trying to purchase practice, but deal was not completed when other physician would not give up his number.
#4	Since July/85	Courtesy at U.B.C.	yes	Wished to associate with another Dr. and assume part of his practice. (no sale apparent)
#5	Since July/85	Visiting at Shaughnessy	no - (none on file)	Wished to associate with another Dr.
#6	Since Oct./85	Courtesy at Mount St. Joseph's	yes	Wished to associate with his father and gradually take-over his practice.
#7	Since May/85	Visiting privileges at V.G.H.	NK	Plans to take-over practice of another Dr. in the future.
#8	Since July/87	Full privileges at V.G.H.	yes	Was in process of purchasing a practice but is currently 'on hold'.
#9	Since March/87	Associate (full) at Shaughnessy	yes	Was negotiating to associate with another physician.
#10	Since August/87	Visiting privileges at Burnaby General	yes	Wishes to establish a new practice.
#11	Since July 1985	Full admitting privileges at Burnaby General	Yes	Wishes to establish a new practice.
#12	Since July 1987	Associate privileges at, VGH	Yes	Unclear - not taking over existing practice - possibly wishes to establish a new practice.

Province of British Columbia

Ministry of Health

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November 13, 1987

Mr. Stephen Owen
Ombudsman
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Dear Mr. Owen:

Thank you for the revised draft of the Practitioner Number Study dated November 13, 1987.

I am pleased to provide the formal response of the Medical Services Commission.

General

The Commission welcomes this independent review of the administrative process in place to control the issuance of practitioner numbers. It is recognized that this is a very significant social policy; that it potentially affects every practising physician in the Province as well as many who would like to practise in British Columbia and that it is a policy without administrative precedence in other Canadian provinces. The administration is further complicated by the fact that the health care system with independent physicians and hospitals is a very complex environment with decades of tradition and autonomy.

The following represents my response to your specific recommendations:

Recommendation # 1

The Commission is sympathetic to the need for an appeal mechanism to review decisions on behalf of applicants who are aggrieved. Because the Regulations under the Medical Service Act require the Commission to consider whether the applicant has hospital privileges and because the vast majority of unsuccessful applicants for a practitioner number are unsuccessful because they cannot obtain privileges, it follows that the Medical Appeal Board provides this appeal mechanism for most applicants.

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For those applicants who obtain hospital privileges and who are not granted a practitioner number, an appeal mechanism presently does not exist and would require legislative amendment.

Your recommendation will be forwarded to the Minister of Health for his consideration.

Recommendation # 2

While the Commission has clear policies and information is distributed as required it is necessary to continually refine and clarify policy statements. This is an ongoing process and will continue.

Recommendation # 3

The Commission is in full agreement with the objective of regional medical manpower planning and enjoys the active support of the Hospital Programs Division of the Ministry and the British Columbia Health Association. Legislative authority to require approved manpower plans would be necessary. This would contribute to an area wide process for issuing practitioner numbers.

Your recommendation will be forwarded to the Minister of Health for his consideration.

Recommendation # 4

Hospitals have traditionally enjoyed and have a legal right to determine the composition of their medical staff under the Hospital Act. Hospitals have boards and committees to oversee and manage this process and adverse decisions are subject to appeal to the Medical Appeal Board. The Commission does not have nor should it have any authority respecting medical staff appointments in hospitals.

The Commission will continue to advocate a planned approach to medical manpower and to recommend the exclusive use of the merit principle.

Recommendation # 5

An upcoming issue of the Practitioners' Newsletter will clarify to all physicians the Commission's position that the purchase or sale of a medical practice is not a relevant factor in the decision to issue or deny a practitioner number.

Conclusion

I appreciate the prompt and thorough review of the practitioner number process and thank you for the opportunity to respond to your report.

Yours sincerely,

D. M. Bolton, M.D.
Chairman
Medical Services Commission